

QUESTIONNAIRE CONCERNING THE PRACTICAL OPERATION OF THE CONVENTION AND VIEWS ON POSSIBLE RECOMMENDATIONS

- (1) 1 Since the extension of the civil aspects of the convention to Montserrat on 1st March 1999, Montserrat has not had any requests for co-operation or assistance in child abduction and custody cases.
- 2 As above no problems have arisen in practice because we have not had any requests for assistance.
- 3 So far Montserrat has not implemented any special measures to deal with voluntary returns of abducted children.
- 4 Under section 16(1) of the child abduction and custody Act 1997 the Attorney General (Central Authority) is mandated to assist in the making of applications for registration of decisions in Child Abduction and Custody cases in the High Court in Montserrat. There isn't a similar provision however for assistance to persons making applications in the Hague.
- 5 To date our Central Authority has not been requested by anyone to appear on their behalf in proceedings in the Hague.
- 6a-e There are no special provisions to facilitate these forms of assistance where a child has been returned to Montserrat however, there is a general provision in the Child Abduction and Custody Act (section 8) which allows the Attorney General to make a request to any body of persons to provide a report to him in respect of any child in pursuance of article 7 of the convention.
- 6f By virtue of section 16(1) of the child Abduction and Custody Act 1997, a person or persons on whom rights to custody are conferred by a decision of a court outside of Montserrat may make an application to the High Court in Montserrat for the registration of the decision.
- 7 There is no special provision or arrangement in place to secure the effective exercise of rights of access of parents to children in Montserrat.
- 7a-c Section 11(2) of The Child Abduction and Custody Act, provides that the Chief Justice may make rules of court to provide for the procedure in applications for the return of children for the kind of information and entries to which should be provided in applications for the giving of notices under article 16 of the convention.
- 7d-e There are no special provision or rules in place in Montserrat to ensure that terms or conditions on which access have been ordered are complied with.
- 8 Because of the lack of any requests to date for assistance in child abduction cases, Montserrat has not yet had to compile or maintain statistics on child abduction and custody cases.
- 9 When the need arises it will obviously be necessary to provide Montserrat's Central Authority with the staffing and resources necessary to carry out its function effectively. The need however has not yet arisen.
- 10 In principle Montserrat's Central Authority would be willing to support this recommendation which would improve and enhance the quality of service it provides in Child Abduction and custody cases.

- (2) 1 There is one (1) High Court in Montserrat which has the jurisdiction to hear applications under the convention. This court is presided over by one (1) High Court Judge. There is naturally a right of appeal to the court of appeal which is presided over by two (2) Lord justices of appeal and the Chief Justice of the Eastern Caribbean Supreme court, of which Montserrat is a member.
 - 2 There are no special arrangements in place to limit return applications to a limited number of courts. None are being contemplated at this time either.
 - 3 There is no specific measure in place to ensure adequate and prompt hearings of Hague Applications.
 - (a) There is no specific rule of court laid down for such applications to be determined on the basis of documentary evidence alone.
 - (b) There are no special rules in place to control or limit the evidence whether oral or not which may admitted in Hague proceedings.
 - (c) The Attorney General's Chambers is the central authority for Montserrat under the convention by virtue of sections 5 and 14 of the Child Abduction and Custody Act 1997 and it is empowered to achieve the objects of the convention. It therefore has control over court proceedings including the filing of applications and all matters related thereto.
 - (d) There is no special provision for an appeal from a refusal of a return application but appeals generally can be filed within 6 weeks after the decision is delivered in the High Court.
 - 4 There are special procedures in place to facilitate the making of this determination.
 - 5 In practice this issue has not yet arisen.
 - 6 There are no special provisions in place to deal with return orders
 - 7a-g In principle Montserrat's central authority would agree to all these recommendations.
 - 8 To date these issues have not arisen in our court nor have any discussion or recommendations been made locally in respect of these concepts.
- (3) 1&2 Montserrat is unable to respond as the issue has not arisen in our local court.
 - 3 Under section 19 of the child abduction and Custody Act 1997, the court has the power to make interim directions for the purpose of securing the welfare of the child concerned, before granting an application for the enforcement fo a decision made outside of Montserrat.
 - 4 At present consideration is not being given by Montserrat to this proposal.
 - 5 This issue has not yet arisen in our court system.
 - 6 This issue has not yet arisen in our local court.
 - 7 This practice has not yet involved in our local court.
 - 8 There has not been any appointment of this nature made in Montserrat.
 - 9 There is no special provision for legal aid or assistance in this regard.
 - 10 There is no special provision in place to deal with this technicality.
 - 11 In principle Montserrat's central authority would support recommendations a-d and f.
- (4) 1 There is no provision for this type of service in Montserrat.

2a&b These issues have not yet arisen in our courts.

3 There is no special provision in place for recognition and enforcement of foreign access orders.

4 There are no special provisions in place to facilitate cross-frontier access applications.

5 There are no special procedures in place to promote agreement in international access cases.

6 This has not yet arisen in our court.

7 The matter has not yet been determined by local court.

8 There are facilities or information services available to overseas applicants for access/contact orders.

9abc These issues have not yet arisen problems within our central authority.

10 There are no measures presently available to our courts to guarantee adherence by parent so access conditions.

11 This issue has not yet arisen in our court system.

12 In general we would support improvement to the method of enforced access and contact orders.

(5) 1 To date we have not had any problems with non-compliance of convention obligations.

2 Accession Orders are decided on our behalf by the United Kingdom government.

3 We do not think this is strictly necessary. Once the terms of the accession are clearly expressed and explained each contracting state should be in a good position to decide whether or not to accede.

4 We are not in a position to comment since at present we are not actively involved in these commissions.

5 Montserrat does not have any proposal to make in this regard.

(6) 1 We have no views on this matter.

2 The preparation of a list of tasks and functions that would be achieved by the Permanent Bureau if it received additional funding would be to the advantage of the bureau and the contracting states and so this is recommended.

3 The collection of the information would be useful, but I am not sure if it would be absolutely necessary to publish the results for access to the public.

4 Montserrat does not have any views in this matter.

5 In principle Montserrat would support measures that are designated to assist in the ratification and accessions to the convention.

6 At Present Montserrat does not have any bilateral arrangements with non-Hague states aimed at achieving the objectives in article 1 of the Convention.

7 Montserrat does not have any comments on this proposition since the issue of child relocation has not arisen in our court system.